

Introduced by Senator Campbell

February 16, 2005

An act to amend Section 62 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 333, as introduced, Campbell. Property taxes: life estate interest.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests results in a change in ownership of the real property, and provides that certain transfers do not result in a change of ownership.

This bill would provide that a purchase by a person over 50 years of age of a life estate interest in real property, who does not hold a reversionary interest, does not constitute a change of ownership, as provided.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 62 of the Revenue and Taxation Code is
2 amended to read:

3 62. Change in ownership shall not include:

4 (a) (1) Any transfer between coowners that results in a change
5 in the method of holding title to the real property transferred
6 without changing the proportional interests of the coowners in
7 that real property, such as a partition of a tenancy in common.

8 (2) Any transfer between an individual or individuals and a
9 legal entity or between legal entities, such as a cotenancy to a
10 partnership, a partnership to a corporation, or a trust to a
11 cotenancy, that results solely in a change in the method of
12 holding title to the real property and in which proportional
13 ownership interests of the transferors and transferees, whether
14 represented by stock, partnership interest, or otherwise, in each
15 and every piece of real property transferred, remain the same
16 after the transfer. The provisions of this paragraph shall not apply
17 to transfers also excluded from change in ownership under the
18 provisions of subdivision (b) of Section 64.

19 (b) Any transfer for the purpose of perfecting title to the
20 property.

21 (c) (1) The creation, assignment, termination, or
22 reconveyance of a security interest; or (2) the substitution of a
23 trustee under a security instrument.

24 (d) Any transfer by the trustor, or by the trustor's spouse, or by
25 both, into a trust for so long as (1) the transferor is the present
26 beneficiary of the trust, or (2) the trust is revocable; or any
27 transfer by a trustee of such a trust described in either clause (1)
28 or (2) back to the trustor; or, any creation or termination of a trust
29 in which the trustor retains the reversion and in which the interest
30 of others does not exceed 12 years duration.

31 (e) Any transfer by an instrument whose terms reserve to the
32 transferor an estate for years or an estate for life. However, the
33 termination of such an estate for years or estate for life shall

1 constitute a change in ownership, except as provided in
2 subdivision (d) and in Section 63.

3 (f) The creation or transfer of a joint tenancy interest if the
4 transferor, after the creation or transfer, is one of the joint tenants
5 as provided in subdivision (b) of Section 65.

6 (g) Any transfer of a lessor's interest in taxable real property
7 subject to a lease with a remaining term (including renewal
8 options) of 35 years or more. For the purpose of this subdivision,
9 for 1979–80 and each year thereafter, it shall be conclusively
10 presumed that all homes eligible for the homeowners' exemption,
11 other than manufactured homes located on rented or leased land
12 and subject to taxation pursuant to Part 13 (commencing with
13 Section 5800), that are on leased land have a renewal option of at
14 least 35 years on the lease of that land, whether or not in fact that
15 renewal option exists in any contract or agreement.

16 (h) Any purchase, redemption, or other transfer of the shares
17 or units of participation of a group trust, pooled fund, common
18 trust fund, or other collective investment fund established by a
19 financial institution.

20 (i) Any transfer of stock or membership certificate in a
21 housing cooperative that was financed under one mortgage,
22 provided that mortgage was insured under Section 213,
23 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as
24 amended, or that housing cooperative was financed or assisted
25 pursuant to Section 514, 515, or 516 of the Housing Act of 1949
26 or Section 202 of the Housing Act of 1959, or the housing
27 cooperative was financed by a direct loan from the California
28 Housing Finance Agency, and provided that the regulatory and
29 occupancy agreements were approved by the governmental
30 lender or insurer, and provided that the transfer is to the housing
31 cooperative or to a person or family qualifying for purchase by
32 reason of limited income. Any subsequent transfer from the
33 housing cooperative to a person or family not eligible for state or
34 federal assistance in reduction of monthly carrying charges or
35 interest reduction assistance by reason of the income level of that
36 person or family shall constitute a change of ownership.

37 (j) Any transfer during the period March 1, 1975, to March 1,
38 1981, between coowners in any property that was held by them
39 as coowners for all or part of that period, and which was eligible
40 for a homeowner's exemption during the period of the

1 coownership, notwithstanding any other provision of this chapter.
2 Any transferee whose interest was revalued in contravention of
3 the provisions of this subdivision shall obtain a reversal of that
4 revaluation with respect to the 1980–81 assessment year and
5 thereafter, upon application to the county assessor of the county
6 in which the property is located filed on or before March 26,
7 1982. No refunds shall be made under this subdivision for any
8 assessment year prior to the 1980–81 fiscal year.

9 (k) Any transfer of property or an interest therein between a
10 corporation sole, a religious corporation, a public benefit
11 corporation, and a holding corporation as defined in Section
12 23701h holding title for the benefit of any of these corporations,
13 or any combination thereof (including any transfer from one
14 entity to the same type of entity), provided that both the
15 transferee and transferor are regulated by laws, rules, regulations,
16 or canons of the same religious denomination.

17 (l) Any transfer, that would otherwise be a transfer subject to
18 reappraisal under this chapter, between or among the same
19 parties for the purpose of correcting or reforming a deed to
20 express the true intentions of the parties, provided that the
21 original relationship between the grantor and grantee is not
22 changed.

23 (m) Any intrafamily transfer of an eligible dwelling unit from
24 a parent or parents or legal guardian or guardians to a minor child
25 or children or between or among minor siblings as a result of a
26 court order or judicial decree due to the death of the parent or
27 parents. As used in this subdivision, “eligible dwelling unit”
28 means the dwelling unit that was the principal place of residence
29 of the minor child or children prior to the transfer and remains
30 the principal place of residence of the minor child or children
31 after the transfer.

32 (n) Any transfer of an eligible dwelling unit, whether by will,
33 devise, or inheritance, from a parent or parents to a child or
34 children, or from a guardian or guardians to a ward or wards, if
35 the child, children, ward, or wards have been disabled, as
36 provided in subdivision (e) of Section 12304 of the Welfare and
37 Institutions Code, for at least five years preceding the transfer
38 and if the child, children, ward, or wards have adjusted gross
39 income that, when combined with the adjusted gross income of a
40 spouse or spouses, parent or parents, and child or children, does

1 not exceed twenty thousand dollars (\$20,000) in the year in
2 which the transfer occurs. As used in this subdivision, “child” or
3 “ward” includes a minor or an adult. As used in this subdivision,
4 “eligible dwelling unit” means the dwelling unit that was the
5 principal place of residence of the child or children, or ward or
6 wards for at least five years preceding the transfer and remains
7 the principal place of residence of the child or children, or ward
8 or wards after the transfer. Any transferee whose property was
9 reassessed in contravention of the provisions of this subdivision
10 for the 1984–85 assessment year shall obtain a reversal of that
11 reassessment upon application to the county assessor of the
12 county in which the property is located. Application by the
13 transferee shall be made to the assessor no later than 30 days
14 after the later of either the transferee’s receipt of notice of
15 reassessment pursuant to Section 75.31 or the end of the 1984–85
16 fiscal year.

17 (o) Any transfer of a possessory interest in tax-exempt real
18 property subject to a sublease with a remaining term, including
19 renewal options, that exceeds half the length of the remaining
20 term of the leasehold, including renewal options.

21 *(p) A life estate interest in real property purchased by a*
22 *person over the age of 50 years, who does not hold a*
23 *reversionary interest in the property, does not constitute a*
24 *change in ownership as the value transferred is not substantially*
25 *equal to the value of a fee interest in the property.*

26 SEC. 2. Notwithstanding Section 2229 of the Revenue and
27 Taxation Code, no appropriation is made by this act and the state
28 shall not reimburse any local agency for any property tax
29 revenues lost by it pursuant to this act.

30 SEC. 3. This act provides for a tax levy within the meaning of
31 Article IV of the Constitution and shall go into immediate effect.